IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/06/2006

CORAM

THE HON'BLE MRS. JUSTICE PRABHA SRIDEVAN

W.P. No.13114 of 2006
and
W.P.M.P. No.14704 of 2006

A. Arun Thamburaj ... Petitioner

-Vs-

1.Prof. Dr. Brimanandham
M.D.,D.M.(Cardio)
Vice Chancellor
The Tamil Nadu Dr.MGR Medical University
P.B.No.1200, No.69, Annasalai
Guindy, Chennai - 32

2.The Controller of Examination
The Tamil Nadu Dr. MGR Medical University
P.B.No.1200, No.69, Annasalai
Guindy, Chennai - 32 ... Respondents

Writ petition filed und`er Article 226 of the Constitution of India
praying for a writ of mandamus directing the respondents to reassess the
Forensic Medicine(II Year M.B.B.S) answer sheet (subject code: 40 67) of the
petitioner bearing register No.52035207 written by the petitioner on
09-02-2006 by some other qualified examiner.

!For petitioner : Mr. T.R. Rajagopalan
Senior Counsel

For respondents: Mr. AR.L. Sundaresan
Senior Counsel
for Mrs. AL. Gandhimathi

:ORDER

This writ petition has been filed for a mandamus to reassess the
answer sheet with regard to the forensic medicine.
2. Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the
petitioner submitted that this is a case where injustice has been done to the
student who was first through out his academic career and in all the internal
examinations too and he failed only in the forensic medicine theory. The
petitioner was shocked since according to him he could not have secured fail

marks in forensic medicine theory paper especially when his academic performance has been consistently excellent throughout his career. He applied for re-totaling. According to the petitioner, the Vice Chancellor asked him to come on 24-04-2006 and he met the Vice Chancellor along with the parents. For three short notes his marks were given as incorrect though the answers were correct. It is his case that when the short notes were read out to him by the Vice Chancellor the answers were correct and they ought to have been given full marks, and even for the other short notes the examiner had given him grace marks in the range of one or two out of five for each short notes. It is stated in the affidavit that the Vice Chancellor told the petitioner that even though his questions have been brilliantly answered he had not been given marks because he was unlucky and it happens once in a while. The petitioner feels that he is penalised and victimised for no fault of his.

3. The Vice Chancellor has filed a counter and he has denied the case of the petitioner with regard to what happened on 24-04-2006 though it is admitted that there was a meeting between the Vice Chancellor and the petitioner and his parents on the said date. A counter has also been filed by the second respondent. The case of the second respondent is that when the Second M.B.B.S. Course Revised Regulations do not provide for revaluation and allows only for re-totaling, the prayer in the writ petition cannot be granted. Mr. AR.L. Sundaresan, learned Senior Counsel for the respondents submitted that what is produced before this Court is the Regulations applicable for all the years and all the semesters.

4. The learned Senior Counsel appearing for the petitioner would submit that when the meeting on 24-04-2006 is admitted by the Vice Chancellor then it follows that the case of the petitioner that the Vice Chancellor had said that the petitioner is unlucky and it happens once in a while must also be accepted. The authorities do not want to admit to a mistake having been committed by their examiners and that is why in the counter there is a denial. The learned Senior Counsel also submitted that if marks are given for the three short note questions for which there was no valuation, then the petitioner will definitely atleast pass, though according to the petitioner if the answer to the short note questions had been properly valued he would get much more than 55.

5. I am making a slight detour. One with regard to the effect of these marks on our students and the other a suggestion to the Authorities concerned as regards assessing shortnotes. It is really heartrending when one sees young children who are just stepping into adulthood knocking at the doors of this Court to have their marks re-totalled or re-valued all because they feel that their world will come to an end if they do not join the particular course of their choice. There can be no doubt that this will cause acute mental pain to those tender minds and sometimes they even choose to end their lives, not because they have failed but because eventhough they have passed they have lost by a few decimal points or a few marks.

6. Though the result does not change, there is one suggestion that is made for consideration by the authorities concerned. In theory papers, where it is an essay type of answer the examiners may assess the valuation on the basis of various criteria which may include clarity of thought, reasoning etc. But as far as short notes, this is where students hope to score. For instance, if the word to be explained in short notes is 'good faith'. Good Faith is defined as,

"Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention"

If the answer is to the effect that 'good faith' would mean something that is done with due care and attention then though the definition is not strictly in accordance with the definition in Section 52 of the Indian Penal Code, atleast three out of four key words are present. The students should be given definitely more than 50% of the mark that is allotted for that question and not just one or two on the ground that it does not repeat verbatim the words of the Section. The suggestion is given only because this Court is of the opinion it is only in shortnotes that the students hope to score. With the time constraint, if they are able to include only the key words that they remember then they deserve more marks than what has been given in the present case. Ofcourse, these observations cannot benefit the petitioner herein since as submitted by the learned Senior Counsel appearing for the respondent that would given an unfair advantage over the others who have all been marked in a similar fashion.

7. The Rules are clear in so far as revaluation is concerned. They do not permit it. But if as alleged even one question had not been corrected by the examiner then the petitioner is entitled to the marks that the answer deserves. It is only for this reason that the respondents were directed to produce the answer sheet of the petitioner in a sealed cover. The sealed covers were opened and the answers were seen. All the questions have been given marks and there is no mistake in the total. We cannot go into the question whether the assessment made by the examiner was too strict with regard the answers given for the short notes, since I am satisfied that the marks assigned to each question has been totaled and there is no error in the totaling and since the Regulations do not provide for revaluation no relief can be given to the petitioner.

8. The writ petition is therefore, dismissed. However there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

9. A copy of this order shall be communicated to the learned Advocate General who may communicate the same to the Vice Chancellor of the various Universities so that they can take a decision regarding the above suggestion for assessing shortnote questions.

glp

To

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